

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR AUGUST 26th, 2021 @ 7pm

Case Number: B266306 (B-21-11)

Applicant: Andrew Frazier and Canine Obedience Unlimited, LLC.
Contract Purchaser

Request: Special Exception approval to establish a Kennel in accordance with Sec. 1-19-3.210 Special Exceptions Sec. 1-19-8.338, Kennels, Animal Hospitals or Veterinary Clinics in the A and VC Districts

Location: 8994 Urbana Church Road, Urbana Md 21
Map 96, Parcel 163, Tax ID# 07205333.
Zoning, Village Center (VC), 1.82 acres

Planning Region: Frederick

Zoning District: Village Center (VC)

Comp. Plan Designation: Village Center (VC)

Applicable Ordinances: Sec. 1-19-3.210 Special Exceptions
Sec. 1-19-8.338, Kennels, Animal Hospitals or
Veterinary Clinics in the A and VC Districts

Background:

The subject Property is zoned Village Center (VC). The applicant currently operates a full scale dog training resort in Rockville Maryland. The applicant intends to model the Frederick location after the Rockville business.

Ordinance Section 1-19-11.100 defines KENNEL as "A facility where 9 or more dogs, cats or other domestic animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed."

Request:

The Applicant is requesting a Special Exception to establish a dog "Kennels, Animal Hospitals or Veterinary Clinics" per Sec. 1-19-3.210 Special Exceptions and Section. 1-19-8.338, Kennels, Animal Hospitals or Veterinary Clinics in the A and VC Districts

General Criteria – Special Exception:

The following questions and statements are required to be addressed with your Board of Appeals (BOA) Special Exception Application. Some questions or statements may only require a simple acknowledgement that you have read them and that you understand them. Other questions or statements will require a response with information provided based on your specific application.

- (A) An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

The Applicant states they understand this requirement.

- (B) A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:

- (1) The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of this chapter; and

The Applicant states that she is seeking a special exception approval to locate a kennel and animal hospital/veterinary clinic on property zoned VC and located within the Urbana Community Growth Area. The purpose of the VC District is to “reinforce and enhance the historically mixed-use areas within rural communities and designated growth areas” and it permits a variety of limited commercial uses to encourage an overall mix of uses throughout the district while relying on design standards to ensure that new development is compatible with the existing characteristics of each community. See Livable Frederick Master Plan at page 200 and Zoning Ordinance §§ 1-19-5.240(B) and 7.500 (A). The Livable Frederick Master Plan identifies the area in and around the Property as part of the South Frederick Triangle, one of the Primary Growth Sectors within Frederick County, and emphasizes the importance of mixed-use redevelopment opportunities within this area.

The Applicant’s proposal to redevelop an infill Property within a Primary Growth Sector with a mixed use development that incorporates an adaptive re-use of the existing residence and adds exactly the type of light commercial uses envisioned within the VC District - an animal hospital/veterinary clinic and commercial kennel that will serve the needs of the surrounding residential community – all constructed within a walkable village context is completely consistent with both the purpose of VC Zone and with the development vision set forth in Livable Frederick for this portion of Frederick County.

(2) The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and

The Applicant states that the Property is located within ¼ mile of the Casa Bella Commons development, which contains a mix of office, restaurant, and retail space constructed on approximately 2.3 acres. Commercial development in the immediate vicinity of the Property includes an orthodontist, pediatrician, physical therapy and wellness practice, and automotive repair facility. Each of these businesses are housed within buildings comparable in size to the proposed 5,000 square foot commercial kennel and 2,000 square foot animal hospital/veterinary clinic. Thus, the Applicant's proposed operations are completely consistent, in nature, size and scale with the existing development in the neighborhood.

(3) Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and

The Applicant states that the Property is surrounded on two sides by transit infrastructure – the I-270 onramp, an Exxon gas station, and a Park and Ride facility. The church and cemetery that abuts the Property to the north is owned by the Frederick County Landmarks Foundation, which hosts sporadic educational events there, but it is not in regular operational use. Thus, any adverse effects associated with the proposed kennel and animal hospital/veterinary clinic would be largely isolated to the single residences located along Urbana Church Road. To mitigate any negative effects on these properties, the Applicant is proposing to locate the kennel use within the westernmost portion of the Property that abuts I-270 and is furthest from these existing residences.

(4) Parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Applicant states that the kennel and animal hospital/veterinary clinics are required, under Section 1-19-6.220 of the Zoning Ordinance, to provide one parking space for each 400 square feet of floor area excluding kennel, plus one space per examination room and 1 space per employee. The Applicant further states that they will adhere to all parking requirements at the site development plan stage.

(5) The road system providing access to the proposed use is adequate to serve the site for the intended use.

The Applicant states that only vehicular access to the Property is via Urbana Church Road, which is classified on the Comprehensive Plan as a local road. Visibility is excellent in both directions from the site driveway.

- (C) In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ [1-19-8.320](#) through [1-19-8.355](#) of this Code.

The Applicant states that they understand this requirement.

- (D) A special exception approval may be granted in accordance with the general and specific requirements enumerated in this section. The Board of Appeals may, in addition to other requirements imposed under this chapter and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of this chapter and may be grounds for termination of the special exception.

The Applicant states that they understand this requirement.

- (E) The Board of Appeals shall not grant a special exception unless and until:

(1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested; and

The Applicant states they understand this requirement and that is the process they are currently going through.

(2) A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.

The Applicant states that they understand this requirement and that is the process they are currently going through.

- (F) The grant of special exception may include approval of customary incidental accessory uses as reviewed and approved by the Zoning Administrator.

The Applicant states that they understand this requirement.

- (G) No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.

The Applicant states that they understand this requirement.

- (H) If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

The Applicant states that they understand this requirement.

- (I) A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicant states that they understand this requirement.

§ 1-19-8.338. KENNELS, ANIMAL HOSPITALS OR VETERINARY CLINICS IN THE A AND VC DISTRICTS.

The following provisions shall apply to commercial kennels, animal hospitals or veterinary clinics in the A and VC Districts.

- (A) The minimum lot area, lot width, yard setbacks and height, shall be as provided for in the table in § [1-19-6.100](#).

The Applicant states that the application meets or exceeds the required lot width, yard setbacks and height set forth in Section 1-19-6.100 for animal care uses in the VC Zone. Operations will be conducted within a completely enclosed building, no outside runs or kennel and animal hospital/veterinary clinics are permitted, except in the A District, and then subject to a 150 foot minimum setback from all property lines. The subject property must have frontage and access on a paved public road.

The Applicant further states as discussed above, the Property fronts onto Urbana Church Road, a paved public road.

- (B) Operations will be conducted within a completely enclosed building, no outside runs or kennels are permitted, except in the A District, and then subject to a 150 foot minimum setback from all property lines.

The Applicant states that the operations will be conducted within a completely enclosed building, no outside runs or kennel and animal hospital/veterinary clinics are permitted, except in the A District, and then subject to a 150 foot minimum setback from all property lines

- (C) In the A District, the maximum number of animals permitted shall be 100.

The Applicant States that the zoning for their property is Village Center (VC)

- (D) In the A District, one freestanding sign no more than 15 feet in height and 25 square feet in area is permitted and shall be subject to the normal setback requirement for natural resources uses.

The Applicant states that they understand this requirement.

- (E) The subject property must have frontage and access on a paved public road.

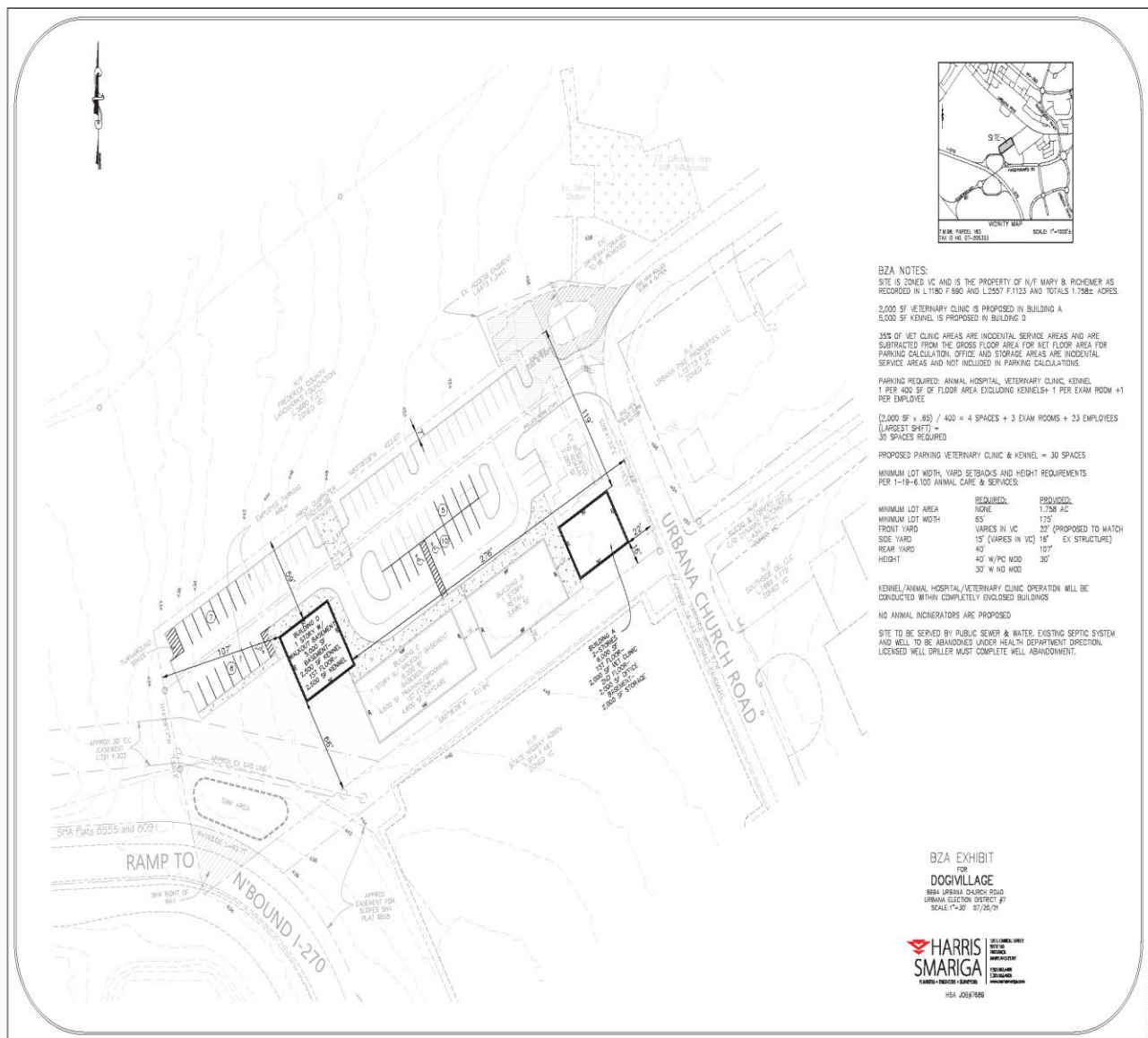
The Applicant states that the property has frontage and access to a paved public road.

II. CONCLUSION

Staff requests that the Board review the Applicant's request for Special Exception under Section 1-19-3.210 (Special Exceptions) and Section 1-19-8.338 (Kennels ... in the A & VC Districts) and render a decision on the Applicant's request.

A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

Site Plan



Maps

